

AMENDED IN SENATE JUNE 19, 2014

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN ASSEMBLY MAY 8, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1770

Introduced by Assembly Member Dababneh

February 14, 2014

An act to add *and repeal* Section 2943.1 ~~to~~ of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, as amended, Dababneh. Real property liens: revolving lines of credit: suspend and close.

Under existing law, within 30 days after a mortgage has been satisfied, the mortgagee or the assignee of the mortgagee is required to execute a certificate of the discharge of the mortgage, as specified, and to deliver, upon the request of the mortgagor or another authorized person, the original note and mortgage to the person making the request.

Existing law requires a creditor to make certain disclosures to a consumer applying for a home equity loan, as defined. Existing federal law relating to lending practices specifies certain circumstances under which a lender may reduce or terminate an existing home equity line of credit.

This bill would, on and after July 1, 2015, *and until July 1, 2019*, require a lender, upon receipt of a specified written request from a borrower and a specified payment, to close a borrower's ~~revolving~~

equity line of credit, as defined, and to release or reconvey the property secured by the ~~revolving equity~~ *equity* line of credit, as specified. The bill would prescribe the contents of the written request.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2943.1 is added to the Civil Code, to
2 read:

3 2943.1. (a) For purposes of this section, the following
4 definitions apply:

5 (1) “Beneficiary” has the same meaning as defined in Section
6 2943.

7 (2) “Borrower’s Instruction to Suspend and ~~Close~~” *Close Equity*
8 *Line of Credit*” means the instruction described in subdivision (c),
9 signed by the borrower or borrowers under ~~a revolving an equity~~
10 line of credit.

11 (3) “Entitled person” has the same meaning as defined in Section
12 2943.

13 (4) “*Equity line of Credit*” means a revolving line of credit used
14 for consumer purposes, which is secured by a mortgage or deed
15 of trust encumbering residential real property consisting of one
16 to four dwelling units, at least one of which is occupied by the
17 borrower.

18 ~~(4)~~

19 (5) “Payoff demand statement” has the same meaning as defined
20 in Section 2943.

21 ~~(5) “Revolving line of credit” means an open-end revolving~~
22 ~~loan that is established pursuant to a written agreement between~~
23 ~~a borrower and a lender on residential real property consisting of~~
24 ~~one to four dwelling units in which the lender agrees to lend the~~
25 ~~borrower money on a continuing basis for as long as the~~
26 ~~outstanding principal amount owed by the borrower does not~~
27 ~~exceed a specified amount, and which is secured by a mortgage~~
28 ~~or deed of trust on real property.~~

29 (6) “Suspend” means to prohibit the borrower from drawing
30 on, increasing, or incurring any additional principal debt on the
31 revolving line of credit.

(b) Notwithstanding paragraph (5) of subdivision (a) of Section 2943, a payoff demand statement issued by a beneficiary in connection with a ~~revolving~~ *an equity* line of credit shall include an email address, fax number, or mailing address designated by the beneficiary for delivery of the Borrower's Instruction to Suspend and Close *Equity Line of Credit* by the entitled person.

(c) Upon receipt from an entitled person of a Borrower's Instruction to Suspend and Close ~~Revolving~~ *Equity* Line of Credit, *that has been prepared and presented to the borrower by the entitled person* and signed by a borrower, a beneficiary shall suspend the ~~revolving~~ *equity* line of credit for a minimum of 45 days. A Borrower's Instruction to Suspend and Close *Equity Line of Credit* shall be effective if made substantially in the following form and signed by the borrower:

"Borrower's Instruction to Suspend and Close
~~Revolving~~ *Equity* Line of Credit

Lender: [Name of Lender]

Borrower(s): [Name of Borrower(s)]

Account Number of the Equity Line of Credit: [Account Number]

Encumbered Property Address: [Property Address]

Escrow or Settlement Agent: [Name of Agent]:

In connection with a sale or refinance of the above-referenced property, my Escrow or Settlement Agent has requested a payoff demand statement for the above-described ~~revolving~~ *equity* line of credit. I understand my ability to use this account has been suspended for at least ~~45~~ *30* days to accommodate this pending transaction. I understand that I cannot use any credit cards, debit cards, or checks associated with this ~~account while my account~~ *equity line of credit while it* is suspended and all amounts will be due and payable upon close of escrow. I also understand that when payment is made in accordance with the payoff demand statement, my ~~revolving~~ *equity* line of credit will be closed. If any amounts remain due after the payment is made, I understand I will remain personally liable for those amounts even if the ~~account~~ *equity line of credit* has been closed and the property released.

1
2 This is my written authorization and instruction that you are to close my
3 ~~revolving equity~~ line of credit ~~account~~ and cause the secured lien against this
4 property to be released when you are in receipt of both this instruction and
5 payment in accordance with your payoff demand statement.
6

7 _____ " "
8 (Date) (Signature of Each Borrower)"
9

10
11 (d) When a beneficiary is in receipt of both a Borrower's
12 Instruction to Suspend and Close ~~Revolving Equity~~ Line of Credit
13 and payment in accordance with the payoff demand statement as
14 set forth in Section 2943, the beneficiary shall do all of the
15 following:

- 16 (1) Close the ~~revolving equity~~ line of credit.
17 (2) Release or reconvey the property securing the ~~revolving~~
18 ~~equity~~ line of credit, as provided by this chapter.
19 (e) *The beneficiary may conclusively rely on the Borrower's*
20 *Instruction to Suspend and Close Equity Line of Credit provided*
21 *by the entitled person as coming from the borrower.*

- 22 (e)
23 (f) (1) This section shall become operative on July 1, 2015.
24 (2) *This section shall remain in effect only until July 1, 2019,*
25 *and as of that date is repealed.*